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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,581	01/27/2004	Akio Uchiyama	17406	3837

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EXAMINER

KASZTEJNA, MATTHEW JOHN

ART UNIT	PAPER NUMBER
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3739

MAIL DATE	DELIVERY MODE
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07/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/766,581	Applicant(s) UCHIYAMA, AKIO	
	Examiner Matthew J. Kasztejna	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/9/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 21, 2007 has been entered.

Notice of Amendment

In response to the amendment filed on April 19, 2007, new claims 41-43 are acknowledged. The following new grounds of rejection are set forth:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 37-40 and 43 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0068204 to Imran et al.

In regard to claim 37, Imran et al. disclose a medical apparatus 105 adapted for use with a capsulated medical apparatus 110, said capsulated medical device having

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an imager for obtaining an image, said capsulated medical device transmits a signal of image data to an external reception apparatus 101, 102, 103 and 104 that is placed outside of the body, the medical apparatus being placed outside of a body and is different from the external reception apparatus, the medical apparatus comprising: a communication section 100 capable of at least receiving the image data of the image from the external reception apparatus; a drive power supply section including a battery 147 for supplying a driving power to at least the communication section; and a display section 151 for displaying at least the received image data (see Figs. 1 and 5 and paragraphs 0093-0100).

In regard to claim 38, Imran et al. disclose a medical apparatus, wherein the drive power supply section is further capable of supplying the driving power from an external power supply, as is well known in the art.

In regard to claim 39, Imran et al. disclose a medical apparatus, further comprising a signal processor 142 which processes the image data to display the image (see Fig. 5).

In regard to claim 40, Imran et al. disclose a medical apparatus, wherein the communication section is capable of transmitting data to the external reception apparatus (see paragraphs 0097-0100).

In regard to claim 43, Imran et al. disclose a medical apparatus, wherein the external reception apparatus is adapted to store data (see paragraph 0100).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0103417 to Gazdzinski in view of U.S. Patent Application Publication No. 2003/0139661 to Kimchy et al.

In regard to claims 37-38, Gazdzinski discloses a medical apparatus 804 adapted for use with a capsulated medical apparatus 300, said capsulated medical device having an imager 402 for obtaining an image, said capsulated medical device transmits a signal of image data to an external reception apparatus 802 that is placed outside of the body, the medical apparatus being placed outside of a body and is different from the external reception apparatus, the medical apparatus comprising: a communication section 806 capable of at least receiving the image data of the image from the external reception apparatus; a drive power supply section; and a display section 912 for displaying at least the received image data (see Figs. 5, 6-8 and paragraphs 0060-0065). Gazdzinski is silent with respect to the medical apparatus comprising a batter for supplying a driving power to at least the communication section. Kimchy et al. teach of an analogous medical system wherein the computer station 20 may be a personal computer, a minicomputer, a laptop, or the like (see paragraph 0338). If a laptop is implemented in a system, then the drive power supply section

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would inherently include a battery for powering the system as is well known in the art. The advantages of using a laptop over a personal computer are well known in the art. Thus, it would have been obvious to use a laptop, or a battery for supplying a driving power to the communication system section in the system of Gazdzinski to allow for greater portability as taught by Kimchy et al. and is well known in the art.

In regard to claim 39, Gazdzinski discloses a medical apparatus, further comprising a signal processor 906 which processes the image data to display the image (see Fig. 9).

In regard to claim 40, Gazdzinski discloses a medical apparatus, wherein the communication section is capable of transmitting data to the external reception apparatus (see Fig. 9).

In regard to claims 41-42, Gazdzinski discloses a medical apparatus, wherein said external power supply is an AC power supply (see paragraph 0064-0065).

In regard to claim 43, Gazdzinski discloses a medical apparatus, wherein the external reception apparatus is adapted to store data (see Fig. 9).

Response to Arguments

Applicant's arguments with respect to claims 37-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Kasztejna whose telephone number is (571) 272-6086. The examiner can normally be reached on Mon-Fri, 8:30-6:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJK *me*

7/19/07



LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
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